
EXHIBIT F5

ADDENDUM TO VALLEY FORGE SEWAGE TREATMENT
PLANT AGREEMENT FOR THE PURPOSE OF PERMITTING AND
ADMINISTERING THE SALE OF RESERVED CAPACITY AMONG
THE PARTIES, DATED MAY 26, 1994, BY AND BETWEEN
VALLEY FORGE SEWER AUTHORITY, THE TOWNSHIPS OF
SCHUYLKILL, EAST PIKELAND, CHARLESTOWN, EAST
WHITELAND, TREDYFFRIN, WILLISTOWN, AND EASTTOWN;
THE BOROUGH OF MALVERN; EAST WHITELAND TOWNSHIP
MUNICIPAL AUTHORITY; EASTTOWN MUNICIPAL
AUTHORITY; AND TREDYFFRIN TOWNSHIP MUNICIPAL
AUTHORITY

ADDENDUM TO VALLEY FORGE SEWAGE TREATMENT PLANT
AGREEMENT FOR THE PURPOSE OF PERMITTING AND
ADMINISTERING THE SALE OF RESERVED CAPACITY AMONG THE PARTIES

THIS ADDENDUM dated as of this 30th day of May, 1994 to the Valley Forge Sewage Treatment Plant Agreement dated as of November 1, 1970, as previously amended and supplemented (hereinafter "Agreement") is entered into between the parties to said Agreement, namely, Valley Forge Sewer Authority (hereinafter "Authority"), the Townships of Schuylkill, East Pikeland, Charlestown, East Whiteland, Tredyffrin, Willistown and Easttown, the Borough of Malvern, East Whiteland Township Municipal Authority, Easttown Municipal Authority, and Tredyffrin Township Municipal Authority (hereinafter "Municipalities").

WHEREAS, the Agreement does not expressly permit the sale or purchase of Reserved Capacity as that term is used in the Agreement between or among the Municipalities; and

WHEREAS, in the time that has passed from the date of the Agreement to the present, it has become apparent that the pattern of development and of sewage treatment needs has not occurred entirely in keeping with the projections that formed the basis of the allocation of Reserved Capacity (namely, the allocation set forth in Exhibit "C" to the Agreement), at the time the Agreement was made, with the result that certain of the Municipalities are presently the owners of more Reserved Capacity than they can use while other Municipalities own substantially less Reserved Capacity than is necessary to accommodate their sewage treatment needs; and

WHEREAS, the present Rental Pool system described in the

Agreement as a means for temporarily reallocating Reserved Capacity among the Municipalities does not adequately address the problem of substantial, permanent disparities in the ratios of owned to needed capacities; and

WHEREAS, the parties desire to supplement the Agreement to permit the permanent sale of owned but unused Reserved Capacity among the Municipalities;

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

1. For purposes of this Addendum, the term "Reserve Capacity" shall mean the amount of capacity listed for each Municipality in Exhibit "C" as amended of the Agreement, as follows:

Valley Forge Sewer Authority	2.128 MGD
Tredyffrin Township	1.592 MGD
East Whiteland Township	1.696 MGD
Malvern Borough	0.564 MGD
Willistown Township	1.064 MGD
<u>Easttown Township</u>	<u>0.956 MGD</u>

Total Reserve Capacity 8.00 MGD

2. For purposes of this Addendum, the term "Excess Capacity" shall mean the amount of Reserve Capacity allocated to and now owned by a particular Municipality, minus 110% of the maximum amount of capacity projected to be used by the same Municipality as specified in the most recent Annual Report filed by the Authority

pursuant to the Municipal Wasteload Management Regulations, Title 29 Pa. Code Ch. 94, Section 94.12. (the "Chapter 94 Report").

3. No Municipality will be permitted to sell Excess Capacity unless and until it has submitted a proposal to the Authority detailing the proposed sale and said proposal has been reviewed by and approved by both the Authority and DER as being accurate and consistent with a.) the Chapter 94 Reports for the current year and for the 5 years preceeding the submission of the proposal; b.) the current approved Act 537 Plan for the Municipality; c.) the current approved Act 537 Plan for the Valley Forge Sewage Treatment Plant; d.) the current approved Act 537 Plan, if any Act 537 Plan exists, for any conveyance system, including but not limited to interceptors and pump stations that convey sewage from the Municipality to the Valley Forge Sewage Treatment Plant; and e.) it has complied with any requirement, directive or recommendation of the Pennsylvania Department of Environmental Resources ("DER") to update, amend or supplement its Act 537 Plan and said Plan has been reviewed and approved by DER.

4. Forms for the submission of a sale proposal to be used by a Municipality that wishes to sell Excess Capacity shall be developed by the administrative staff of the Authority. In addition to the information necessary to verify the amount of Excess Capacity available for sale, the format developed by the Authority will provide for the seller to state the price per unit (in either millions of gallons per day (MGD) or equivalent dwelling units (EDU)) that the seller requires as payment for Excess

Capacity.

5. Once the Authority has reviewed the proposal, and the availability of Excess Capacity has been confirmed by the Authority and by DER, the Authority shall notify the Municipalities of the offer to sell, including the price and the number of units available. Notice will be given by certified first class mail, express courier, or by receipted hand delivery to each Municipality's authorized officer or employee. Notice will be deemed to have been given on the date mailed.

6. A Municipality will be permitted to offer to purchase the available Excess Capacity in an amount that is in the same proportion of its Reserved Capacity to the total Reserved Capacity, of the other Municipalities eligible to purchase, adjusted to remove from the calculation the Reserved Capacity share of the seller.

7. Within 10 working days of the giving of notice, each Municipality must either a.) indicate by written notice to the Authority that it does not wish to purchase any amount of capacity at the stated price or, b.) that it wishes to purchase a specific amount of capacity at the stated price. The amount specified may be equal to, greater than, or less than the amount that the Municipality would be permitted to purchase if all of the eligible municipalities desire to purchase capacity. If a Municipality fails to reply to the notice within the time provided, it will be deemed to have waived its right to purchase the capacity offered. Each Municipality will provide to each other Municipality a copy of

its reply to the notice of capacity available for sale.

8. Municipalities that have indicated that they do not wish to purchase capacity at the stated price or are deemed to have waived their right to purchase will be eliminated from the pool of eligible purchasers and the remaining eligible purchasers will be entitled to purchase a greater amount of capacity by virtue of the non-purchasers potential shares being redistributed to the remaining purchasers.

9. In no event shall the amount of Excess Capacity offered for sale exceed the amount of Reserve Capacity currently being rented by the potential purchasers from the Rental Pool, unless there is no capacity being rented by any of the Municipalities that are parties to the Agreement.

10. After receipt of all of the responses from the Municipalities, the Authority shall determine the amount of capacity to be purchased by each eligible participant. Each Municipality will be permitted to purchase the amount of capacity that is equal to its share of the total capacity available, or the amount that the Municipality wishes to purchase, whichever is less.

11. Any capacity not allocated after the initial allocation will be allocated by the Authority to the Municipalities that indicated that they wished to buy more capacity at the stated price than they were initially permitted to purchase pursuant to paragraph 6 above. This step may be repeated as many times as necessary until all of the Municipalities that indicated a desire to purchase capacity have been allocated as much as they sought, or

until 100% of the capacity has been allocated, whichever first occurs.

12. The remaining excess capacity will be allocated to any of the eligible purchasers who have not yet been permitted to purchase the full amount that they originally specified in response to the offer to sell. This allocation will be made based on the relative shares of the remaining eligible purchasers. ¹

13. Any Excess Capacity that remains unsold may be retained by the seller. The seller has the option of offering the remaining capacity for sale at a different price. Any such offer will be

¹ By way of illustration only, the following example illustrates such a transaction:

Five municipalities are parties to the agreement. Municipality X has 1000 units of excess capacity to sell. The other four municipalities own capacity as follows:

- A 4000 units
- B 3000 units
- C 2000 units
- D 1000 units
- X 2000 units

The shares owned by X are irrelevant to the calculation so the shares of the remaining municipalities are based on total capacity of 10000 units as follows: A - 40%, B - 30%, C - 20%, D - 10%. Assuming they have all submitted all necessary reports and documentation, they are each entitled to buy up to their percentage share of the units being sold by X.

Now assume that they indicate to the Authority that they wish to purchase the following amounts: A - 1000 units, B - no units, C - 100 units, D - 200 units.

A will be allocated 400 units, C will be allocated 100 units and D will be allocated 100 units, for a total of 600 units, leaving 400 un-allocated.

B and C have now received the maximum number of units that they are willing to purchase at the stated price, so their shares are removed prior to allocating the remainder. A and D originally owned a total of 5000 units, with A owning 80% and D owning 20%. A will now be permitted to purchase an additional 320 units and D may purchase the remaining 80.

treated as a new sale and all parties to the Agreement will have the opportunity to participate, regardless of whether they purchased capacity at the original sale.

14. It is the intention of the parties that, while the Rental Pool as described in the Agreement will continue to operate as a means of temporarily reallocating capacity, the contribution of capacity to the Rental Pool and the Renting of Capacity from the Pool shall henceforth be considered to be at the option of the individual Municipalities rather than as mandatory.

15. It is the intention of the parties that a Municipality that sells Excess Capacity will not be automatically entitled to or required to own Excess Capacity in the event that the Valley Forge Sewage Treatment Plant is expanded pursuant to the Agreement. Rather, the capacity following expansion will be determined based on the Municipality's actual projected need.

16. This Addendum shall become effective upon its adoption by motion and majority vote of the parties.

IN WITNESS WHEREOF, each of the parties hereto, have caused this Addendum to be duly executed as of the day and year first above written.

VALLEY FORGE SEWER AUTHORITY

Attest: S.R. Wuchelman By: [Signature]

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[CONTINUATION OF SIGNATURES]

Attest: [Signature]

TOWNSHIP OF SCHUYLKILL

By: [Signature]

TOWNSHIP OF EAST PIKELAND

Attest: Kimberly Moretti

By: Gustave Meyer III

TOWNSHIP OF CHARLESTOWN

Attest: [Signature]

By: [Signature]

TOWNSHIP OF EAST WHITELAND

Attest: David Mendez

By: [Signature]

TOWNSHIP OF TREDYFFRIN

Attest: Juniper A. Janacos

By: [Signature]

TOWNSHIP OF WILLISTOWN

Attest: [Signature]

By: [Signature]

TOWNSHIP OF EASTTOWN

Attest: [Signature]

By: [Signature]

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[CONTINUATION OF SIGNATURES]

BOROUGH OF MALVERN

Attest: Leticia M. Griggs By: Margaret M. Liddell

EAST WHITELAND TOWNSHIP
MUNICIPAL AUTHORITY

Attest: N.B. Sherry By: [Signature]

EASTTOWN MUNICIPAL AUTHORITY

Attest: Joseph J. Bachman By: Douglas H. Buerth

TREDYFFRIN TOWNSHIP
MUNICIPAL AUTHORITY

Attest: [Signature] By: [Signature]